

**MINUTES OF THE
LEGISLATIVE MANAGEMENT COMMITTEE**
February 1, 2007 – 5:00 p.m. – W135 House Building

Members Present:

President John L. Valentine, Chair
Speaker Greg J. Curtis, Vice-Chair
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan R. Eastman
Sen. Patricia W. Jones
Sen. Sheldon Killpack
Sen. Ed Mayne
Rep. Ralph Becker
Rep. David Clark

Rep. Brad L. Dee
Rep. Brad King
Rep. David Litvack
Rep. Carol Spackman Moss
Rep. Gordon E. Snow

Staff Present:

Mr. Michael E. Christensen, Director
Ms. Gay Taylor, Associate General Counsel
Ms. Beverlee LeCheminant, Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

President Valentine called the meeting to order at 5:10 p.m.

MOTION: Rep. King moved to approve the minutes of the November 14, 2006 meeting. The motion passed unanimously. Speaker Curtis and Sen. Davis were absent for the vote.

2. Rocky Mountain Care Settlement Agreement

Mr. Doug Springmeyer, Assistant Attorney General, said the Rocky Mountain Care lawsuit was filed in 2002 and is a claim by a nursing home care provider asserting that they were paid less than they were entitled to pursuant to the state Medicaid plan. He indicated that prior to a two-week jury trial, which was scheduled in April 2006, a negotiated settlement was proposed that would call for the state to pay \$2,046,800 and the federal government to pay \$4,953,200, for a total settlement of \$7,000,000 to be paid to the plaintiff.

Mr. Mark Shurtleff, Attorney General, stated that if the committee has any questions or concerns about the allegations, the claims, the amount that was determined to be at risk if the AG's Office moved forward with the lawsuit, and how much the state might end up paying out if it were to lose the case, he would recommend that the meeting be closed to discuss those issues.

Rep. Becker asked Mr. Springmeyer if he could give the committee some background information on the case.

Mr. Springmeyer said the Medicaid program reimbursed nursing home facilities, not on a facility cost basis, but on an industry-based cost reimbursement methodology prior to 2002, when the methodology was changed to a utilization methodology based on the acuity of the patient. He indicated that the claims by Rocky Mountain date back prior to this new system. Rocky Mountain's claim is that federal law required that the efficient and economically operated nursing home facility must be reimbursed at a certain level and that the state, through its state-plan methodology, agreed to meet that reimbursement level, but failed to do so in the actual appropriations that were made by this body. Mr. Springmeyer indicated that the amounts appropriated by the Legislature were paid and that the nursing home facilities

knew what the amount was at that time, but Rocky Mountain claims that although that amount was paid, it was less than what the state should have been required to pay under federal and state law and should be reimbursed through this litigation.

MOTION: Sen. Bramble moved that the committee go into an executive session for the purpose of hearing about the state's exposure on this litigation. The motion passed unanimously.

The committee went into an executive session.

MOTION: Speaker Curtis moved to adjourn the executive session and to reconvene the open meeting. The motion passed unanimously.

MOTION: Sen. Eastmen moved that the committee recommend that the settlement from the Attorney General go before the full Legislature for approval.

Ms. Janet Jenson spoke to the motion. She indicated that she has represented nursing homes in California, Utah, and Washington D.C. for more than 26 years. She distributed a handout explaining that the Legislature should not spend taxpayer dollars to intervene on behalf of one party in ongoing litigation, but to let both parties put on their proof in court; let both parties examine and rebut the evidence or the testimony; and let the court weigh the evidence, apply the law, and render a judgment.

The motion passed unanimously.

3. GRAMA Policies and Procedures

Ms. Taylor reminded the committee of the commercial and free speech activities policy in the legislative area which was passed in the November 14, 2006 meeting. At the committee's direction, staff prepared a pamphlet on the commercial and free speech policy and need the committee's approval of a fee for the pamphlet. Staff has recommended that there be no cost for the pamphlet, but to limit it to one per customer.

MOTION: Rep. King moved to approve a person or state agency may have one free copy of the Commercial and Free Speech Pamphlet. The motion passed unanimously.

4. Other Business

No other business was discussed.

5. Adjourn

MOTION: Rep. Dee moved to adjourn the meeting. The motion passed unanimously.

President Valentine adjourned the meeting at 5:50 p.m.

